REMARKS

In the Office Action mailed November 12, 2009, Claims 1-42 were rejected as obvious. In response, Applicant has amended Claims 1-3, 6, 12, 19, 22, 23, 26, 27, 30, 38, 39, and 42. The amendments are supported at least by paragraph [0006] of the originally filed specification. Applicant respectfully requests reconsideration of the application in view of the amendments above and remarks below.

Discussion of the Rejection under 35 U.S.C. § 103(a)

Claims 1-48 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Greenburg (U.S. Patent Pub. No. 2004/0039602) in view of Bodsworth (U.S. Patent Pub. No. 2002/0095314). Applicant respectfully submits that, as stated in the M.P.E.P. at § 2143, "The rationale to support a conclusion that the claim would have been obvious is that all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination yielded nothing more than predictable results to one of ordinary skill in the art." *See also KSR v. Teleflex*, 550 U.S. 398, 82 USPQ2d 1395. Applicant further submits that the cited references fail to describe at least one feature of each of Claims 1-48.

Claim 1, as amended, recites "adjusting, using one or more processors, a **patient copayment** for at least one medication treatment therapy according to a cost-effectiveness of the medication treatment therapy." Each of independent Claims 6, 12, 22, 26, 30, 39, and 42 recite a substantially similar feature. Greenburg and Bodsworth, alone or in combination, fail to disclose such a feature. Although the Office Action states that this feature was disclosed in Greenburg, at paragraph [0032] and in Bodsworth in paragraphs [0023], [0024], and [0052], Applicant respectfully disagrees for the reasons set forth below.

Greenburg, at paragraph [0032], discloses that "protocols can be established on the basis of clinical pathways, research protocols or cost of care. Accordingly, the protocol database 32 can, for example, assist the treatment module 28 and/or the clinician to prompt clinicians to offer the most cost effective approach where medically necessary, to specify treatment with selected medications, or brands of medications." Thus, Greenburg discloses a "cost of care" and that a

treatment approach may be based on this "cost of care." However, Greenburg does not disclose a patient copayment, nor does Greenburg disclose <u>adjusting the patient copayment</u>.

Bodsworth, at paragraph [0023], discloses that a "database of prescriptions and possible alternatives also comprises data on costs of the prescriptions and alternatives, and the system is provided with means to select, or to rank, said alternatives on the basis of costs." Bodsworth, at paragraph [0024], discloses that "the system may also be provided with means to calculate any savings made when the practitioner does choose an alternative prescription." At paragraph [0052], Bodsworth discloses that such as system can be embodied as a computer program. Thus, Bodsworth discloses "costs of the prescriptions and alternatives" and that the system can select or rank alternatives based on these costs. However, Bodsworth does not disclose a <u>patient copayment</u>, nor does Bodsworth disclose <u>adjusting the patient copayment</u>.

Applicant respectfully submits that the patient copayment is not the cost disclosed by the applied art. In one embodiment, a drug with a high cost might have a very low patient copayment, because it is more effective. Conversely, a drug with a low cost might have a very high patient copayment if it is either expected to be dangerous or ineffective.

As Greenburg and Bodsworth, alone or in combination, fail to disclose "adjusting, using one or more processors, a **patient copayment** for at least one medication treatment therapy according to a cost-effectiveness of the medication treatment therapy" as recited in Claim 1 or the substantially similar language recited in the other independent Claims, Applicant submits that a *prima facie* case of obviousness has not been established with respect to independent Claims 1, 6, 12, 22, 26, 30, 39, and 42.

Claims 2-5, 7-11, 13-21, 23-25, 27-29, 31-38, 40-41, and 43-8 depend directly or indirectly on one of the above-discussed independent Claims. Applicant respectfully submits that, as stated in the M.P.E.P. at § 2143.03, "If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)." In view of the nonobviousness of the independent Claims, Applicant submits that the dependent Claims are also nonobvious.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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